

REMARKS

Claims 1-82 are pending. Claims 47-62 and 64-77 are allowed. Claims 81 and 82 are cancelled herein without prejudice. Claims 1, 22, 23 and 63 are amended herein. The amendments add no new matter.

Applicants wish to thank Examiners Marvich and McKelvey for the telephone interview held August 21, 2003, at which the indefiniteness rejections of claims 1 and 81 were discussed, and during which Examiner Marvich agreed to consider the amendments presented herein.

Information Disclosure Statement:

Applicants wish to thank the Examiner for pointing out that the Supplemental IDS filed November 11, 2002, paper No. 9, did not include the references from the International Search Report listed on the IDS. Applicants submit that International Search Report was reported as a formality – the two references on the International Search Report, US 2002/0081565 (Barnea et al.) and WO 98/35018 (Life Technologies, Inc.) were already of record in the application. Specifically, the Barnea et al. reference had been previously cited by the Examiner as a novelty reference and has been successfully distinguished over by Applicants. The WO 98/35018 reference was cited in the IDS filed October 18, 2001.

Objections to the Specification:

The Office Action objected to the specification's inclusion of an embedded hyperlink or browser-executable code on page 11. Applicants have amended the paragraph at page 11, lines 24-29 to render the cited text non-browser-executable. The amendment adds no new matter.

Claim Objections:

Claim 82 is objected to under 37 C.F.R. §1.75(c) as failing to further limit the subject matter of the previous claim. Applicants submit that the cancellation of claim 82 without prejudice renders this objection moot.

Claims 2-21, 23-27, 29-46 and 78-80 are objected to as being dependent from a rejected claim, but allowable if re-written in independent form reciting each of the limitations of the

claims from which they are currently dependent. Applicants submit that the amendment of claims 1, 22 and 28 made herein are believed to place the base claims in condition for allowance. Therefore, 2-21, 23-27, 29-46 and 78-80 have not been amended herein as suggested.

Rejection of Claims Under 35 U.S.C. §112, Second Paragraph:

Claims 1, 22, 28, 63, 81 and 82 are rejected under 35 U.S.C. §112, second paragraph as indefinite.

Claims 1 and 81 are said to be indefinite for reciting that “said cells are suspended in the liquid state immediately prior to said drying,” and “said cells are not frozen prior to said drying.” The Office Action states that these terms are not defined by the claims or the specification other than the disclosure that the “cells are not frozen for at least one minute prior to said drying” on page 13, lines 15-18. The Office Action states that “the cells then appear to require at least one minute of remaining in a liquid state, unfrozen prior to drying,” and “without this as guidance, the claim is indefinite and the metes and bounds of the claim cannot be established.” Applicants respectfully disagree.

Applicants submit that the amendment of claim 1 and the cancellation of claim 81 herein are sufficient to overcome this ground of rejection. Specifically, Applicants submit that the language “said cells are not frozen at the time of said drying,” of claim 1 as amended is clearly definite. Support for the amendment is found on the last line (line 29) of page 13, which states “The cells themselves are never freeze dried.” One of skill in the art understands that freeze-drying is drying a sample that is frozen at the time of drying. Thus, this statement fully supports the amended claim.

Claim 22 is rejected because the limitation “said glass-forming matrix material” lacks proper antecedent basis in claim 20, from which it depends. Applicants submit that the amendment to claim 22 changing the dependency from claim 20 to claim 21 obviates this rejection.

Claims 28 and 63 are rejected because the Trademark/Trade name “FicollTM,” is not capitalized. Applicants submit that the amendment of the term to all capital letters is sufficient to overcome this ground of rejection.

In view of the above, Applicants submit that all issues raised in the Office Action have been addressed herein and that the claims are now in condition for allowance. Applicants respectfully request reconsideration of the claims.

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Respectfully submitted,


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